

THE HIGH COURT OF TRIPURA
AGARTALA

MFA(WC) NO. 04 OF 2010

Sri Kishore Baul,
S/O, Late Bipin Baul,
Resident of Matripally, Badharghat,
P.S. - Amtali, Dist.-West Tripura.

..... **Appellant.**

- V e r s u s -

1. The State of Tripura,
Represented by the Secretary,
Public Works Department,
Govt. of Tripura, Agartala,
West Tripura.
2. The Assistant Engineer,
Office of the Assistant Engineer,
Public Health Engineering,
Sub-Division No.X, Matripally,
Badharghat, P.S. – Amtali,
Dist.-West Tripura.

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. P.K. Dhar, Advocate,
Mr. R.G. Chakraborty,
Advocate.

For the respondents : None.

Date of hearing and : 29.04.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER(ORAL)

This appeal by the claimant is directed against the
award dated 19-03-2010 passed by the learned Commissioner,
Workmen's Compensation, West Tripura, Agartala in case No.

T.S.(WC) 32 of 2007 whereby the claim petition of the petitioner was rejected on the ground that the petitioner was not employed with the respondents and was, therefore, not a workman within the meaning of the Workmen's Compensation Act, 1923 (hereinafter referred to as "the Act").

2. The claimant filed a claim petition that on 27-12-2006 he received injuries while unloading large size iron joist from a lorry bearing registration No.JK-02-AB-7237 at Matripally Public Health godown. According to him, this accident took place in the presence of Mr. Goutam Sinha and Mr. Dilip Paul, Engineers. He alleged that he was working as a contract labourer.

3. The respondents denied that the claimant had received injuries in any accident which had taken place during the course of employment. They denied that he was their employee. The claimant was unable to produce any cogent evidence to show that he was a workman whether a contract labourer or directly under the employment of the department. Both Goutam Sinha and Dilip Paul stepped into the witness box and denied that any occurrence had taken place in their presence. In fact, Goutam Sinha stated that prior to 27-12-2006 he had been posted away from this division and, therefore, the question of his being present there did not arise at all. Despite this evidence, the Commissioner with a view to do justice

between the parties on 06-06-2009 directed the respondents to produce the records giving details of the materials which were received on 27-12-2006 and also directed that release order issued in favour of the carrier, driver and owner of the vehicle be produced. Thereafter, the department filed a large number of documents but there was no document dated 27-12-2006. Accordingly, on 09-11-2009 the Commissioner again directed that the opposite party No.2 has not produced the relevant register or gate passes of 27-12-2006 and it was given last chance to produce such document. Thereafter, an affidavit was filed on behalf of the department that no material had entered the premises on 27-12-2006 and, therefore, there was no question of there being any entry in the register and similarly there was no question of there being any gate pass for the said date.

4. It appears to me that the case set up by the petitioner was false because he stated that Goutam Sinha was present whereas in fact, he had already been transferred. No details of the owner of the truck were given and no details of the muster roll or employment of the claimant were even sought for from the department. Despite this, the Commissioner himself directed the department to produce certain record and the department has replied that the record cannot be produced because on 27-12-2006 there was no such transaction.

5. The finding of fact arrived at by the learned Commissioner that the claimant was not a workman is based on evidence. There is no material to hold that this finding is perverse. No question of law, much less a substantial question of law arises in this appeal.

6. Therefore, I find no merit in this appeal which is accordingly dismissed.

7. Send down the lower court records forthwith.

CHIEF JUSTICE